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EX-AGENT OF F.B.I. FACES 2D SPY TRIAL

20-Year Employee of Bureau
Accused of Giving Secrets
to a Russian Couple

By JUDITH CUMMINGS

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LOS ANGELES, Feb. 12 — Richard W. Miller, the first agent of the Federal Bureau of Investigation ever accused of espionage, goes on trial for the second time Thursday.

Mr. Miller, who was with the bureau for 20 years, is accused of passing secret documents to a Russian woman and her husband, who later pleaded guilty to espionage charges.

Mr. Miller's first trial ended last November with the jurors deadlocked, 10 to 2 for conviction, on the key espionage counts against him. Several jurors said that the two holdouts felt Mr. Miller had made damaging statements about himself only because of duress in the bureau's investigation of the case. Mr. Miller was dismissed from the bureau just before his arrest Oct. 2, 1984.

The retrial will be the third presentation of much the same evidence, each time in the Los Angeles courtroom of Federal District Judge David V. Kenyon. In addition to Mr. Miller's first trial, the couple to whom Mr. Miller is accused of passing bureau secrets, Svetlana and Nikolay Ogorodnikov, were on trial for two months before they pleaded guilty.

Sexual Favors Reported

Mr. Miller, 49 years old, testified in the Ogorodnikovs' trial as well as in a pretrial hearing a year ago. He did not take the witness stand in his own trial.

Mr. Miller is accused of allowing himself to be recruited by Mrs. Ogorodnikov to aid in the funneling of secret bureau documents to the K.G.B., the Soviet Government's intelligence agency. The Government says that in return Mr. Miller received her sexual favors and a promise of \$85,000 and a \$675 trench coat.

Mr. Miller was charged in a seven-count Federal indictment that included charges of conspiracy to commit espionage, passage of secret national defense information to a foreign power and bribery. Mrs. Ogorodnikov is serving an 18-year sentence and Mr. Ogorodnikov an 8-year sentence in Federal prison.

The Government's case focused on a 24-page document that officials have described as capable of providing to Soviet intelligence "a detailed picture of F.B.I. and U.S. intelligence activities, techniques and requirements." The bureau said Mr. Miller had provided Mrs. Ogorodnikov with the document.

A third Russian, Aleksandr Grishin, an official of the Soviet consulate in San Francisco, was also named by the Federal grand jury as a co-conspirator in the case but was not indicted. Mr. Grishin, who had diplomatic immunity and could not be prosecuted in the United States, later left the country, according to the Government.

Videotapes Were Used

Mr. Miller denies that he was engaged in spying in his associations with the Ogorodnikovs, whom he met through his work as a countespionage agent in the bureau's Los Angeles office. Mr. Miller contended that he was pursuing a plan to redeem himself and his career by setting out to use the Ogorodnikovs to infiltrate the K.G.B. His trial disclosed that Mr. Miller's career had been marred by poor job ratings from his superiors and a chronic problem of being overweight, for which he was once suspended for two weeks.

There has been little disagreement between the defense and the prosecution over his actions, many of which had been recorded on audiotapes and videotapes by bureau agents investigating the case. Rather, the disagreement came over Mr. Miller's motives and character.

Robert C. Bonner, the United States Attorney who headed the prosecution at the first trial and will do so again, described Mr. Miller to the jurors as "a stain" on the bureau. Another prosecutor, Russell Hayman, will be working with Mr. Bonner.

The bureau's Director, William H. Webster, in the wake of the public embarrassment over Mr. Miller's arrest, said that the bureau could take pride in policing itself and detecting and Mr. Miller's purported crimes.

But Stanley Greenberg, who with Joel Levine constitutes Mr. Miller's defense team, told the jurors in the earlier trial that Mr. Miller was a misfit and a bumbler who was simply in over his head in espionage work. He appealed to jurors to think of Mr. Miller as a "Ralph Kramden," the hapless bus driver portrayed on television by the comedian Jackie Gleason.

Mr. Miller has been in custody since his arrest, much of it in isolation. His wife, Paula, a teacher, continues to live at the family's home in rural San Diego County with seven of the couple's eight children.

'Keeping My Family Going'

Mrs. Miller said in a recent interview that she started a full-time teaching job this month and was supporting her family with the help of two older sons.

"We're just doing," she said. "Keeping my family going as solid as they can, facing it head on."

Tre, a 17-year-old son, said he joked about the trial as much as possible to try to put it in perspective.

"People say, why do you joke about it?" he said. "I say what else am I supposed to do? I went to a beach party once and a girl asked me, 'What does your dad do?' The whole camp just went dead silent. I said, 'Oh, time: about 90 to life with good behavior.'"

The teen-ager said he was optimistic, because "a big family will pull together much better than a small family — everyone tries harder because you have to."

Judge Kenyon has barred lawyers from publicly discussing the case, a rule that has stood since the trial of the Russian couple.